

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re Edward H. Okun Internal Revenue
Service § 1031 Tax Deferred Exchange
Litigation

NO. C 07-02795 JW
NO. C 09-02079 JW
NO. C 09-md-02028JW

**ORDER REQUESTING AMENDED
PROPOSED ORDER**

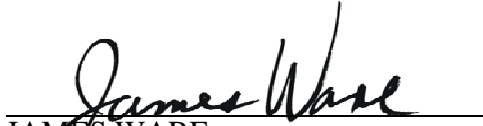
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This case is scheduled for a hearing on February 28, 2011 on the parties' Joint Motion for Preliminary Approval of Wave III Class Settlement. (hereafter, "Motion," Docket Item No. 471.) Upon review of the parties' submissions, the Court finds that the parties' Proposed Orders do not satisfy the requirements of In re Mercury.¹ Specifically, the Proposed Orders must provide the class sufficient time following the filing of Plaintiffs' Attorney Fee Application for any Objectors to file their objections with respect to the Application to conform with the requirements of due process. Id. Further, In re Mercury requires that a fee application must include details sufficient for the class to meaningfully evaluate it, including detailed hour reports and how those efforts contributed to the benefit of the class. Id.

¹ In re Mercury Interactive Secs. Litig., No. 08-17372, 2010 WL 3239460 (9th Cir. Aug. 18, 2010).

1 Accordingly, on or before **February 28, 2011**, the parties shall submit Amended Proposed
2 Orders that comport with the timing requirements of In re Mercury, namely, the parties shall include
3 timing provisions for the filing of requests for attorneys fees and the class members' objections, if
4 any, to the fee requests.² Further, pending preliminary approval of the settlement, the Court will set
5 a Final Fairness Hearing for **June 27, 2011, at 9 a.m.** Thus, in their Amended Proposed Orders, the
6 parties shall use this putative Final Fairness Hearing date to adjust all other deadlines accordingly.

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8 Dated: February 25, 2011


JAMES WARE
United States District Chief Judge

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27 ² Further, the Court notes that Defendant Citibank's Proposed Order has incorrectly included
28 the date for the Final Fairness Hearing to be February 28, 2011.

United States District Court

For the Northern District of California

THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:

Allen W. Burton aburton@omm.com
Allison Lane Cooper acooper@kksrr.com
Anthony Robert Zelle tzelle@zelmcd.com
Bradley J. Lingo blingo@gibsondunn.com
Brett Alan Broge bbroke@lerchsturner.com
Brian P. McDonough bmcdonough@zelmcd.com
Carol Lynn Thompson cthompson@sidley.com
Cindy Hamilton hamiltonc@gtlaw.com
Debra Steel Sturner Dsturner@lerchsturner.com
Eileen Regina Ridley eridley@foley.com
Ethan D. Dettmer edettmer@gibsondunn.com
F. Joseph Warin fwarin@gibsondunn.com
James Carnegie Krieg jkrieg@kksrr.com
Jeffrey Noah Labovitch jlabovitch@mwwllp.com
Jennifer Robin McGlone jmcglone@kksrr.com
John Kenneth Van De Weert jvandeweert@sidley.com
Jonathan Matthew Blute jblute@mpbf.com
Karen Rosenthal rosenthalk@gtlaw.com
Katherine R. Catanese kcatanese@foley.com
Kevin Michael Fee kfee@sidley.com
Lawrence A Kellogg lak@lklaw.com
Madeline Anne Zamoyski mzamoyski@omm.com
Mark Bruce Blocker mblocker@sidley.com
Michael Drury mdrury@mwwllp.com
Michael P. Denver mpdenver@hbsb.com
Patrick T. Wong pwong@foley.com
R. Van Swearingen vswearingen@sidley.com
Robert A. Curtis rcurtis@foleybezek.com
Robert Louis Brace rlbrace@hbsb.com
Scott A. Fink sfink@gibsondunn.com
Stephen F. Gordon sgordon@gordonfirm.com
Thomas G. Foley tfoley@foleybezek.com
Thomas Reynolds Heisler theisler@sidley.com
Thomas W. Evans tevans@zelmcd.com
Timothy J. Halloran thalloran@mpbf.com
Todd Barnett Gordon tgordon@gordonfirm.com
Wayne Allen Schrader wschrader@gibsondunn.com
William J. Goines goinesw@gtlaw.com

Dated: February 25, 2011

Richard W. Wieking, Clerk

By: /s/ JW Chambers
Elizabeth Garcia
Courtroom Deputy